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October 31, 2012

S. WAYNE ROSENBAUM
Direct (858) 794-4112
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VIA E-MAIL MICHAEL.D.ROGERS@DHS.GOV
VIA U.S. FIRST-CLASS MAIL

Michael D. Rogers
Attorney
Office of Assistant Chief Counsel -- Indianapolis
U.S. Customs and Border Protection
6650 Telecom Drive, Suite 100
Indianapolis, Indiana 46278

Re: Soitec Tierra del Sol Solar Project

Dear Michael:

This firm represents Soitec Solar Development ("Soitec") in the above referenced matter. Further to our discussions on Wednesday, October 24, 2012, I write to request a response from the Department of Homeland Security ("DHS") regarding the agency's interest in acquiring a portion of Soitec's property in San Diego County that abuts the U.S. Border. (See site location map attached hereto as Exhibit A.)

As we noted in our previous conversations, Soitec is proposing to build a solar generation facility capable of producing 60 mW of renewable energy, which will help the nation move closer to energy independence and security. The project includes design features that will augment border security including better access roads available to DHS, additional security fencing along the public reserve right of way, and removal of brush, debris and other visual barriers.

The project can proceed with permitting when the County confirms that DHS does not require the 90 foot strip of Soitec's property abutting DHS's holding for security purposes, pursuant to County Policy I-111 ("Policy") attached hereto as Exhibit B. That confirmation can be either in the form of an affirmative writing by DHS or silence by DHS for 90 days after receiving notice of the project.

On June 25, 2012, Ashley Gungle, a Land Use and Environmental Planner with the County, notified David Martin at DHS as the predecessor agency to INS of Soitec's pending project application. (A copy of the e-mail is attached as Exhibit C.) On September 5, 2012 Soitec



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followed up with its own notice to DHS by way of a letter to Ryan Yamasaki, DHS Sector Chief, a copy of which is attached hereto as Exhibit D.

Soitec understands that the County has not received any written communications from DHS pursuant to the provisions of the Policy. Thus, we conclude that the application must now be deemed complete for the purposes of the Policy and request DHS's confirmation of this conclusion. In the event that DHS disputes the adequacy of the prior notices, we request that the agency accept this letter as formal notice and expedite its decision to the greatest extent possible in order to avoid any additional delays in the approval of this important project.

Very truly yours,

S. Wayne Rosenbaum

Enclosures

CC: Patrick Brown, Soitec Solar Development, LLC
Dwain Boettcher, Soitec Solar Development, LLC
Jim Whalen, J. Whalen Associates
Ryan Waterman, Stoel Rives LLP
Elizabeth Cason, Stoel Rives LLP
Ashley Gungle, County of San Diego
David Sibbit, County of San Diego

EXHIBIT A

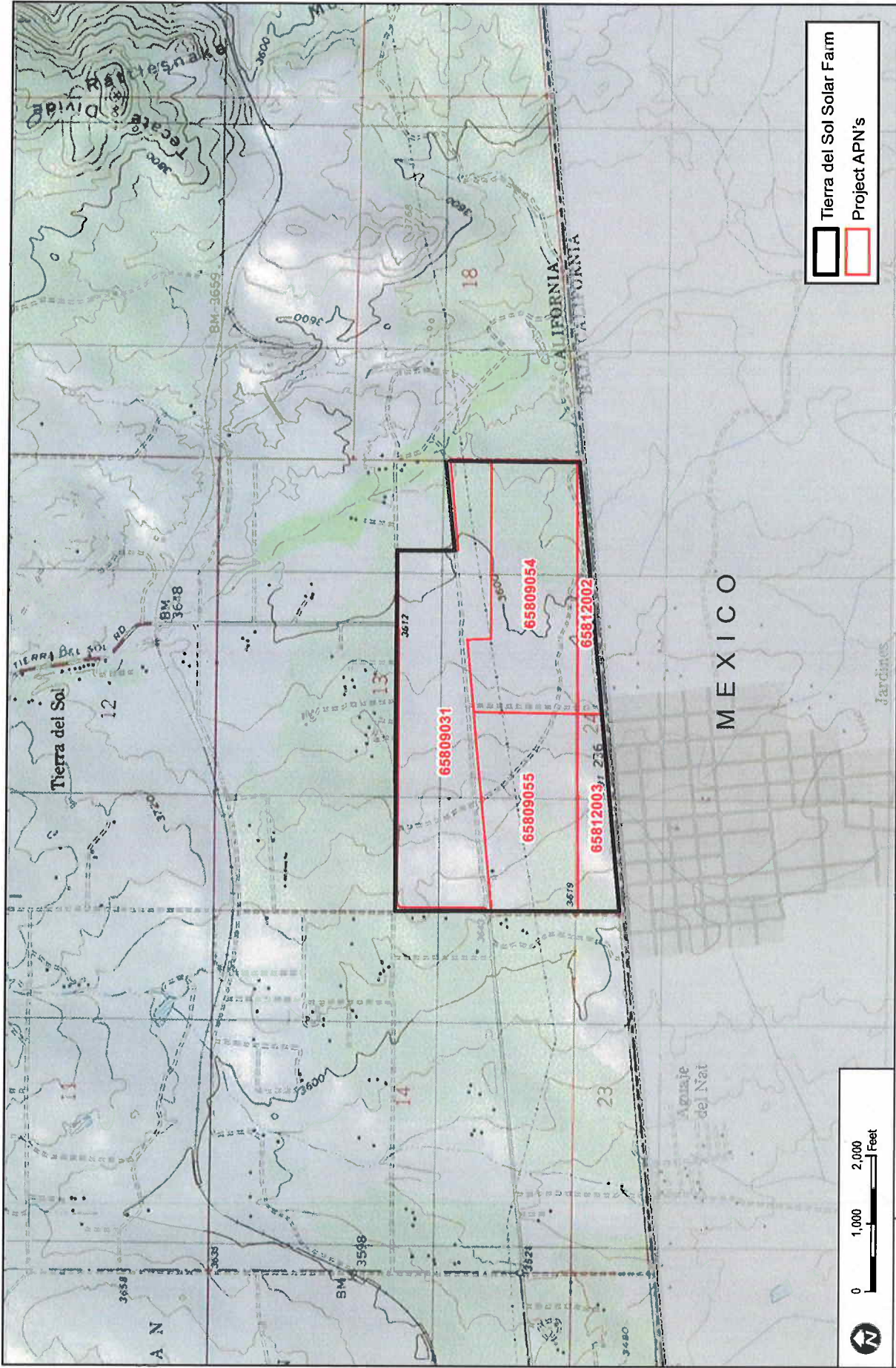


FIGURE 2
Vicinity Map

SOURCE: USGS 7.5-Minute Series Tierra del Sol Quadrangle.

DUDEK

7123

PROJECT DESCRIPTION - TIERRA DEL SOL SOLAR FARM

EXHIBIT B

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Land Use Policy for Discretionary Permits Adjacent
to the International Border

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I-111

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Purpose

To establish a policy and procedure in cooperation with the Federal Government to assist in the acquisition and protection of an open corridor along the International Border prior to the approval of discretionary permits by the County.

Background

Law enforcement along the International Border is a concern to local, State, and Federal Governments and results in considerable time and effort required by various public jurisdictions to resolve problems and issues associated with proximity to the International Border. The Department of Immigration and Naturalization has indicated that such efforts could be enhanced if there existed an open corridor at least (150) feet along the border to facilitate movement of the Patrol's personnel and to serve as an open view corridor. The County of San Diego can assist the Department of Immigration and Naturalization in keeping this corridor open by requiring that discretionary permits provide a time period for the Department of Immigration and Naturalization to purchase rights or fee title to such open corridor before such area is developed. San Diego County can additionally assist by ensuring through subdivision design that new subdivided lots will not be created within this open area.

On October 22, 1986, as part of the public hearing for General Plan Amendment GPA86-03, the Board of Supervisors adopted a special setback on land adjacent to the International Border. This special (90) foot setback exclusive of the existing (60) foot Public Reserve adjacent to the International Border creates a (150) foot open space corridor. The purpose of this open space is to function as a view corridor and to provide emergency access to facilitate law enforcement and fire protection.

Policy

It is the policy of the Board of Supervisors that for discretionary permits requested for properties located within 150 feet from the International Border, the following shall apply:

1. Upon the receipt of such above described application, the Department of Planning and Land Use shall notify the local Office of Immigration and Naturalization (INS) of such pending application and of the provisions of this policy.
2. Such application shall not be deemed complete until one of the following occurs:

COUNTY OF SAN DIEGO, CALIFORNIA
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- a. A letter submitted from the INS indicating they do not plan on entering into negotiations toward purchasing rights to the open space corridor located on the property subject to the application.
- b. Ninety days has elapsed from the date of original submittal and the INS has not indicated to the Department that they are interested in opening negotiations regarding an open space corridor.
- c. A letter is submitted from INS indicating that negotiations have been completed, or attempts to purchase have been abandoned.
- d. One hundred eighty days have elapsed from the date upon which the letter from the INS indicating intent to negotiate was received by the Department of Planning and Land Use.

3. The provisions of this policy shall not apply in the following instances:

- a. Discretionary applications submitted which do not propose building pads, structures, or fences within (150) feet of the International Border.
- b. Discretionary applications for properties which are subject to a setback designator or D designator, which prescribe specific actions to be taken relative to development along the International Border.

Sunset Date

This policy will be reviewed for continuance by December 31, 2012.

Board Action

10-14-87 (23)

12-12-89 (49)

4-14-99 (11)

06-23-04 (12)

12-09-08 (33)

CAO Reference

1. Department of Planning and Land Use

EXHIBIT C

From: Gungle, Ashley
Sent: Monday, June 25, 2012 2:05 PM
To: 'brian.martin@dhs.gov'
Subject: Tierra Del Sol Solar Project (R12-005/P12-010)
Attachments: 3600-12-005-PLOT-PLAN.pdf; Tierra De Sol Solar- Notice.pdf

Brian,

I received your contact information from David Sibbet with the County of San Diego (DPLU). I am hoping that you are the correct person to speak with or that you may be able to lead me in the right direction.

I am attempting to notify the Department of Homeland Security/Border Patrol that a new project has been for a large solar project near the US-Mexico border. Attached is the notice that was sent out for this project. The project description is as follows:

The project is a Major Use Permit for the construction and operation of a 60MW solar energy system on an approximately 420-acre site and a Rezone to remove the "A" special area designator from the site. The project site is located within the Boulevard Community Plan area of the Unincorporated County of San Diego, adjacent to the US/Mexico border (APN 658-120-03-00, 658-090-31-00, 658-090-55-00, 658-120-02-00, 658-090-54-00)

The project would be completed in two phases; phase I consisting of 1,910 concentrating photovoltaic (CPV) trackers on approximately 330 acres and phase II consisting of 619 CPV trackers on approximately 90 acres. Also included would be a 1,000 volt DC underground collection system, a 34.5 kV overhead and underground collection system to link the CPV systems to the onsite substation, a 4-acre operations and maintenance (O&M) area including a 7,500 square foot O&M building, a 3-acre onsite private collector substation site, 31 to 46 inverter stations and a 138 kV overhead transmission line connecting the onsite private collector substation to SDG&E's proposed Boulevard Substation.

The project site is accessed off of Tierra Del Sol Road. Internal circulation would be provided by 24-foot graded and 12-foot improved (with an all weather surface) fire access roads located in the north/south direction (and in the east/west direction every fourth row) and 20-foot wide service roads located in the north/south direction.

The site is subject to the Rural General Plan Regional Category and Rural Lands (RL-80) Land Use Designation. Zoning for the site is S92 (General Rural) and A70 (Limited Agricultural). The project would include a restroom in the operations and maintenance building which would be served by septic. Water to be used during the construction and maintenance phases would be provided by an onsite well. Earthwork would consist of the balanced cut and fill of approximately 694,450 cubic yards of material.

I have also included a plot plan for the proposed project. I am hoping to get Department of Homeland Security/Border Patrol involved in this process as soon as possible to ensure that any concerns are addressed up front. Please let me know if it would be beneficial to set up a meeting with the applicant at this time and also please let me know if you have any additional questions about the proposed project.

Thank you,

Ashley

Ashley Gungle
Land Use/ Environmental Planner
County of San Diego
5201 Ruffin Road, Suite B
San Diego, CA 92123
office: 858-495-5375
fax: 858-694-3373

"How to access Zoning Information "online"; Open website: <http://www.sdcounty.ca.gov/dplu/>; click on "Online Services", scroll

down and click on "Find Maps" (GIS); scroll down and click on "Property Profile Map"; enter APN and click "Submit".

"How to access the Zoning Ordinance "online"; Open website: <http://www.sdcounty.ca.gov/dplu/>; click on "Zoning Ordinance", click Part Two for Use Regulations, etc.


Please consider the environment before printing this email. 

EXHIBIT D



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La Jolla, CA 92037 (USA)
T. + 1(0)858-349-2642
Mike.Armstrong@soltec.com
www.soltec.com

September 5, 2012

U.S. Department of Homeland Security
Attention: Ryan Yamasaki, Sector Chief
2411 Boswell Road
Chula Vista, CA 91914

Soltec Tierra del Sol Solar Project

Dear Mr. Yamasaki:

Soltec Solar Development is requesting to work with the Department of Homeland Security (Border Patrol) regarding coordination with Soltec on a large solar project that abuts the United States and Mexico border. This letter summarizes what we believe are the security measures that are needed in order to maintain or improve security in the vicinity of the Tierra del Sol Solar project.

The existing project site conditions are such that visibility and access are poor because of the dense 5' to 12' foot high native chaparral vegetation. We believe that clearing the entire site of vegetation and the implementation of the following measures would increase security for the surrounding community. Please see the attached map for reference points of the proposed measures:

- A. Eastern Access Road:** This access road would provide unobstructed travel from north to south starting about 1000' feet from the westerly turn off Tierra del Sol Road and commencing due south to the U.S Government 60' foot easement at the border.
- B. Security Gates:** A key pad security system and electric gate would be provided at no cost to the Department. Both the North and South entrance gates will have the secured access with the ability to change gate codes upon request. The gates will also provide access to the Fire Department for emergency situations.
- C. Western Access Road:** This access road would provide unobstructed travel from westerly turn off Tierra del Sol Road and commencing due south to the U.S Government 60' foot easement. (See "A" above)
- D. Clear Space Requirement:** The County of San Diego Board of Supervisor's Policy I-111 requires that an additional 90' foot setback be provided for any proposed discretionary project application within 150' feet of the U.S. Mexico Border. The estimated gross area that would be lost due to this setback is approximately 13 acres of land spread over the length of the property (6,618' feet X 90' Feet = 13.67 acres).

There is a provision in the County Zoning Ordinance that allows for a waiver to be granted from this setback requirement, if it is supported by the Department. Soltec Solar Development requests that the Department grant this waiver to allow for us to maximize our development foot print. We understand that there may be a risk of equipment damage as the modules get closer to the border, but this would allow us flexibility in our site design.

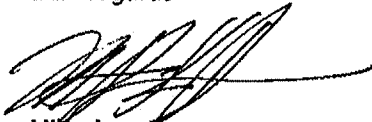
**Tierra del Sol Solar
Homeland Security Letter**

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A form of easement or agreement mutually acceptable by both parties would need to be executed to allow for access at the Department's discretion.

The Tierra del Sol project was submitted to the County on June 15, 2012. We respectfully request a response letter that validates the project design measures if possible by September 21st for our resubmital in October 2012. If you have any questions or would like to discuss this matter, please contact Patrick Brown at 619-733-2649 or by email at Patrick.Brown@soltec.com.

Best regards



Mike Armstrong,
Business Development Manager
Soltec Solar Department Inc.

Attachments:

- A: County of San Diego Board of Supervisors Policy I-111
- B: Marked Map of Proposed Project Features
- C: Vicinity Map

cc:

Dwain Boettcher, Project Development Manager, Soltec Solar Dwain.BOETTCHER@soltec.com
Patrick Brown, Environmental Permitting Manager, Soltec Solar Development, Patrick.Brown@soltec.com
Jim Whalen, Jim Whalen and Associates, James@jwhalen.net

Attachment A.

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COLIEM

soitec

Solar Solar Development, LLC
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San Diego, CA 92121-1125

PLOT PLAN

SHEET NUMBER

C-101-0

Attachment C

